

JOURNAL NO. 70

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Saturday, August 30, 1986

CALL TO ORDER

At 9:35 a.m., the President of the Constitutional Commission, the Honorable Cecilia Muñoz Palma, called the session to order.

NATIONAL ANTHEM AND PRAYER

The National Anthem was sung followed by a prayer led by Mrs. Minda Luz M. Quesada, to wit:

"Dear Heavenly Father, we come before You with contrite hearts

Be with us today and the days ahead as we resolve to finish the challenging task of drafting our new Constitution acceptable to the majority of the Filipino people, for it truly reflects their interests and welfare

We pray for our esteemed colleagues who are in the hospital — Commissioners Rosales and Treñas — and all others who are now experiencing some illnesses possibly borne out of the stress and strain of our work

Lay Your healing hands on them and strengthen us all in mind and body that we may remain whole when our task is done

We beseech You, our gracious Lord and Redeemer, to also heal the wounds and the pain resulting from conflicts, help us to be tolerant of our differences and

Help us to show our love for You and that Your love is in us not only in words but in our deeds and the lives we lead

May Your light so shine before us that people may see Your glory in us all,

These we ask through Jesus Christ our Savior.

Amen."

ROLL CALL

Upon direction of the Chair, the Secretary-General of the Commission called the Roll and the following Members responded:

Alonto, A. D.

Nieva, M. T. F.

Azcuna, A. S.

Nolledo, J. N.

Bacani, T. C.

Muñoz Palma, C.

Bennagen, P. L.

Quesada, M. L. M.

Bernas, J. G.

Rama, N. G.

Rosario Braid, F.

Rigos, C. A.

Calderon, J. D. .

Romulo, R. J

De Castro, C. M.

Tadeo, J. S. L.

Colayco, J. C.

Tan, C.

Davide, H. G.

Villacorta, W. V.

Foz, V. B.

Uka, L. L.

Gascon, J. L. M. C.

Villacorta, W. V.

Guingona, S. V. C.

Villegas, B. M.

Jamir,

A. M. K.

With 27 Members present, the Chair declared the presence of a quorum.

The following Members appeared after the Roll Call:

Abubakar, Y. R.

Natividad, T. C.

Aquino, F. S.

Padilla, A. B.

Bengzon, J. F. S.

De los Reyes, R. F.

Concepcion, R. R.

Rodrigo, F. A.

Garcia, E. G.

Sarmiento, R. V.

Laurel, J. B.

Suarez, J. E.

Lerum, E. R.

Sumulong, L. M.

Maambong, R. E.

Messrs. Regalado, Rosales and Treñas were sick.

Messrs. Monsod and Ople were absent.

READING AND APPROVAL OF THE JOURNAL

On motion of Mr. Calderon, there being no objection, the reading of the Journal of the previous session was dispensed with and the said Journal was approved by the Body, with the following corrections:

1) at the instance of Mr. Guingona,

a) on page 998, second column, fourth line, add "s" to "view";

b) on page 1001, second column, second paragraph, line 2, between the words “involve” and “curriculum”, insert the words AMONG OTHERS;

c) on page 1002, first column, second paragraph line 3, change "Lacer" to LASSER; and on the eighth line thereof, change "Padre Bulan" to PADRIGUILAN; and on the ninth line thereof, change "his" to HER;

d) on page 1003, first column, line 7, change "principally" to ONLY; and

e) on the same page, second column, paragraph 2, line 2, change "Chou Shuyui" to CHIA SIOUW YUE; and

2) at the instance of Mr. Uka, on page 1000, second column, line 4, add "s" to "messenger".

REFERENCE OF BUSINESS

On motion of Mr. Calderon, there being no objection, the Body proceeded to the Reference of Business.

REFERRAL TO COMMITTEES OF COMMUNICATIONS

Upon direction of the Chair, the Secretary-General read the titles of the following Communications which were, in turn, referred by the Chair to the Committees hereunder indicated:

Communication No. 664 — Constitutional Commission of 1986

Communication signed by two hundred seventy-two (272) members of the Catholic Women's League of Our Lady of the Miraculous Medal Parish, Project 4, Quezon City, seeking inclusion in the Constitution of a provision protecting the right to life of the unborn from the moment of conception

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 665 Constitutional Commission of 1986

Communication from the Alliance of Concerned Teachers, 2866-C Zamora Street, Pasay City, signed by its Chairman, Mr. Raul E. Segovia, suggesting inclusion in the Constitution of a provision that "No Filipino should be barred from studying in any school for reason of religion, sex, political belief, or income"

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 666 — Constitutional Commission of 1986

Communication from the Catholic Women's League of the Diocese of Antipolo, Rizal, signed by its President, Judge Salome A. Montoya, informing that the Diocesan Board passed unanimously a resolution calling for full and unqualified protection of the unborn child from the very moment of conception in the mother's womb

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 667 — Constitutional Commission of 1986

Letter from Mayor Henry D. Relleta of the Municipality of Jose Panganiban, Camarines Norte, transmitting Resolution No. 35-86, adopted by the Sangguniang Bayan of Jose Panganiban, appealing to the Constitutional Commission that the problem of American bases in the country be left to the incoming legislature to decide

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 668 — Constitutional Commission of 1986

Telegram from the Atlantic Network Conference with participants from the Pacific, Indian Ocean and Mediterranean seeking inclusion in the new Constitution of a provision for a bases-free and nuclear-free Philippines for the sake of peace

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 669 — Constitutional Commission of 1986

Communication from the American Division Post 45, Philippine Department of American Legion, Cebu City, signed by its Post Commander, Eleno Andales, urging the retention of the American military bases in the

Philippines even beyond 1991

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 670 — Constitutional Commission of 1986

Communication from the Citizens Alliance for the Constitutional Protection of the Unborn, signed by Ms. Necy de Torres, schoolteacher, and two hundred forty-two employees and students of Canossa College, San Pablo City, Laguna, seeking to include in the new Constitution a provision obliging the State to protect the life of the unborn from the moment of conception

TO THE COMMITTEE ON PREAMBLE, NATIONAL TERRITORY AND DECLARATION OF PRINCIPLES

Communication No. 671 — Constitutional Commission of 1986

Letter from Mr. Laurence G. Woolcox, a Canadian who migrated to the Philippines, requesting that resident immigrants be accorded equal rights based on the principle of reciprocity, particularly in the development of the economy

TO THE COMMITTEE ON THE NATIONAL ECONOMY AND PATRIMONY

Communication No. 672 — Constitutional Commission of 1986

Letter from Mr. Rudolfo P. Parreno of the Parañaque Bible Christian Church, Merville Park Community Center, Merville Park Subdivision, Parañaque, Metro Manila, urging the Constitutional Commission to incorporate in the Constitution a provision that the separation of the Church and the State shall be inviolable as embodied in the 1973 Constitution and as understood historically and jurisprudentially in the Philippines

TO THE COMMITTEE ON GENERAL PROVISIONS

Communication No. 673 — Constitutional Commission of 1986

Telemessage from Mr. Lupo T. Carlota, Jr., Chairman, First National Convention of Filipino-Americans in the United States, 5300 Cottonwood, Memphis, Tennessee, U.S.A., urging that Constitutional Commission to include in the new Constitution a provision allowing natural-born Filipinos who have acquired citizenship of other countries to retain their Philippine citizenship

TO THE COMMITTEE ON CITIZENSHIP BILL OF RIGHTS, POLITICAL RIGHTS AND OBLIGATIONS AND HUMAN RIGHTS

Communication No. 674 — Constitutional Commission of 1986

Letter from Mr. Romeo C. Balandra of the Commission on Population, Region X, Cagayan de Oro City, transmitting a resolution of the Association of Law Students, Xavier University, Cagayan de Oro City, proposing amendments to Section 4, Article II and Section 10, Article XV of the 1973 Constitution for inclusion in the new Constitution

TO THE COMMITTEE ON HUMAN RESOURCES

Communication No. 675 — Constitutional Commission of 1986

Letter from Honorable Lino Brocka, Member, Constitutional Commission of 1986, dated August 28, 1986, informing that he has written to Her Excellency, President Corazon C. Aquino, about his irrevocable resignation from the Constitutional Commission of 1986 and requesting that the members of his staff be given their salaries until the end of the month

TO THE ARCHIVES

MANIFESTATION OF MR. RAMA

Thereafter, Mr. Rama manifested that the Body would vote, on Second Reading, on Proposed Resolution No. 539 on the Commission on Human Rights after Mr. Foz shall have presented further corrections on the clean copy which was distributed to the Members.

CORRECTIONS ON PROPOSED RESOLUTION NO. 539 ON THE COMMISSION ON HUMAN RIGHTS

Thereupon, on behalf of the Committee on Constitutional Commissions and Agencies, Mr. Foz proposed the following corrections on Proposed Resolution No. 539 on the Commission on Human Rights, for consideration of the Committee on Style:

1)

On page 1, line 9, substitute the phrase "all of whom shall" with WHO MUST;

2)

On page 2, line 1, delete the comma (,) after "guidelines" and insert the word AND;

3)

On page 2, line 7, delete the words "citizens of the Philippines" and in lieu thereof, insert FILIPINOS;

4)

On page 3, amend line 2 to read CASES OF VIOLATIONS OF HUMAN RIGHTS THAT SHOULD FALL; and

5)

On the same page, line 3, insert a comma (,) between "Commission" and "taking".

There being no objection, said corrections were approved by the Body.

APPROVAL ON SECOND READING OF PROPOSED RESOLUTION NO. 539 ON THE COMMISSION ON HUMAN RIGHTS

Thereafter, on motion of Mr. Rama, there being no objection, the Body proceeded to vote on Second Reading, on Proposed Resolution No. 539 (Committee Report No. 370), as amended, entitled:

Resolution to incorporate in the new Constitution the provisions on the Commission on Human Rights.

With majority of the Members voting in favor, none against, and 1 abstention, Proposed Resolution No. 539, as amended, was approved by the Body.

In reply to the Chair's query on the proper place of Resolution No. 539 in the Constitution, Mr. Foz stated that it would be left to the Committee on Sponsorship to decide.

UNFINISHED BUSINESS: COMMITTEE REPORT NO. 29 ON THE PROPOSED ARTICLE ON

EDUCATION, SCIENCE, TECHNOLOGY, ARTS AND CULTURE

Thereafter, on motion of Mr. Rama, there being no objection, the Body resumed consideration, on Second Reading, on the Proposed Article on Education, Science, Technology, Arts and Culture (Committee Report No. 29), entitled:

Resolution to incorporate in the Constitution an Article on Education, Science, Technology, Arts and Culture.

Mr. Rama stated that the Body was in the period of interpellations.

Thereupon, the Chair recognized Mr. Villacorta and the members of the Committee on Human Resources.

INTERPELLATION OF MR. ROMULO

In reply to Mr. Romulo's query why "acquisition of knowledge" was not included in the enumeration of purposes in Section 1, Mr. Villacorta stated that the Committee felt it is assumed to be one of the objectives of education; however, it would be open to suggestion at the proper time

On Section 2(f), Mr. Romulo inquired whether educational institutions should be compelled to create or organize multi-sectoral bodies to participate in the formulation of school policies or whether this should be left to the constituents of each educational institution to decide. In reply, Mr. Villacorta stated that the Committee felt it should be made a requirement to ensure a broader-based set of policies and decisions for each school, considering that parents have as much responsibility as the State to educate their children. He opined that the formation of multi-sectoral bodies would also diffuse conflicts that may arise in the educational system.

On Section 3, upon Mr. Romulo's inquiry as to how fiscal autonomy for private institutions of higher learning may be guaranteed, Mr. Villacorta stated that the details thereof would be left to Congress, but the general principle behind the provision is that institutions of higher learning, particularly the state colleges and universities, would be more effective if fiscal policies would be left to them to determine. He affirmed that private institutions of higher learning would be allowed to regulate the tuition and other fees they may charge. He added, however, that parents and students who would sit in the multi-sectoral bodies could check the imposition of onerous tuition fees.

Mr. Romulo inquired on the necessity of the second paragraph of Section 4, on the right of non-academic personnel to form associations and undertake concerted activities, in the light of the provisions in the Articles on Social Justice and the Bill of Rights, and the current labor laws, to which Mr. Villacorta replied that it is necessary to emphasize the right of the teachers, researchers and the non-academic personnel to form associations and undertake concerted activities because they perform a category of work different from those done by regular laborers.

On the meaning of compulsory education in the elementary level, Mr. Villacorta explained that Section 1(b) is addressed to both the State and the parents to ensure literacy among younger segments of the population. He affirmed, however, that this would require more school buildings and teachers.

On whether the Committee contemplates that the implementation of the provision would follow some of the practices abroad on truancy and policing of students, Mr. Villacorta replied in the affirmative, stating that due consideration should be given to constraints such that with respect to the elementary level, enforcement shall be very limited due to: 1) unavailability of school buildings throughout the country; and 2) lack of enforcement agencies to carry out the implementation of the program.

On whether the implementation of compulsory education be done by Congress or the Ministry of Education, Culture and Sports, Mr. Villacorta stated that it shall be done by the latter.

INTERPELLATION OF MR. RAMA

Mr. Rama observed that some missionary schools were established in hazardous places where no other organizations would dare go. Adverting to Section 2(c), he asked whether these missionaries should not be encouraged to establish schools in such places.

In reply, Mr. Villacorta stated that it is not the aim of the provision to close down these schools, but to hurdle certain legal technicalities which can be easily addressed to. He stated that thorough discussions and public hearings had been conducted with the assistance of the Fund for Assistance to Private Education and Dr. Marcos Herras who is a legal specialist on this matter, pointed out that there would be no problem in transferring ownership rights to their local counterparts or in the case cited by Mr. Bacani, where a group of Italian nuns does not have any local counterpart, then they can link up with the archdiocese of the province where the school is located.

Mr. Rama pointed out that the provision would discourage the setting up of missionary boards, religious schools and charitable organizations in view of the deletion of the proviso in the 1973 Constitution containing the following exception:

"Educational institutions other than those established by religious orders, mission boards and charitable organizations, shall be owned solely by citizens of the Philippines."

Replying thereto, Mr. Villacorta reiterated that they could link up with their local counterparts or with the archdiocese in the area, in compliance with the provision.

Mr. Rama suggested that since the contributions of these schools for the good of the country are recognized, the saving clause of the 1973 Constitution should be restored to avoid any misconception, to which Mr. Villacorta replied that the provision seeks to cure the conflict between Filipino and foreign school administrators.

Mr. Rama underscored the fact that religious schools are very good schools and that the proviso would discourage them to continue, pointing out that the thrust of the proviso should be on closing down schools which are "diploma mills".

Mr. Villacorta gave the assurance that these schools shall not be closed down since most of them had been Filipinized.

Mr. Rama stated that the change of ownership would, likewise, affect the quality and standard of these schools, to which Mr. Villacorta replied that it would not, adverting to Faith Academy, which was cited by Mr. Tingson in the previous session.

By way of an example, Mr. Rama cited the University of San Carlos as a very good educational institution because the German priests who teach in the university are able to get equipment, apparatuses and donations from Germany and that a change in the complexion of ownership of the school could affect the enthusiasm of its patrons in giving aid and assistance.

Mr. Villacorta stated that Filipinized religious schools do not suffer from lack of donations from church and other foundations and that ownership has nothing to do with the quality of education.

Reacting thereto, Mr. Gascon stated that: 1) the provision seeks to encourage linkage with Filipino counterparts; and 2) Filipinization of these schools would not mean that foreign teachers would be banned from providing

expertise or rendering services therein.

Mr. Rama argued, however, that foreign patrons would prefer giving aid to people of their own nationality, to which Mr. Gascon stated that a religious order includes people of several nationalities.

Mr. Rama stated that the deletion of the 1973 Constitutional proviso evokes discouragement rather than encouragement. In addition, Mrs. Rosario Braid stated that while the Board of Trustees and the ownership would be Filipino, this would not preclude the appointment of foreigners as senior members for administration.

Mr. Rama pointed out that the wordings of the provision do not support the interpretation.

On whether "non-academic personnel" in Section 4 refers to the employees of the school such as clerks, registrars, janitors and gardeners, Mr. Villacorta replied in the affirmative.

Mr. Rama observed that the phraseology of Section 4 is similar to Section 12. He then asked the Committee whether the school employees enumerated therein would participate in the formulation of school policies and programs, to which Mr. Villacorta replied that the gardeners and janitors shall represent the non-teaching staff in the multi-sectoral body.

On whether the formulation of school policies and programs would require expertise and technical knowledge, Mr. Villacorta explained that the phrase "the details of which will be provided by law", means that Congress may define the areas within which multi-sectoral bodies shall have participation. He stated that this arrangement would afford greater harmony within the academic community and would minimize labor unrest or dissatisfaction.

INTERPELLATION OF MR. RODRIGO

Mr. Rodrigo expressed apprehension over sub-paragraph (b) of Section 1 which, he said, might raise false hopes in the minds of the people, considering that the finances of the government at present is worse than in 1935 and 1973.

On whether the Committee had studied the financial condition of the government to comply with the mandate to provide free public elementary and secondary education, Mr. Villacorta stated that the Committee had requested Dr. Adrian Arcelo, a noted economist on education, to conduct the study for them. He stated that Dr. Arcelo based his study on two assumptions: 1) that one hundred percent of all children of primary and secondary school ages will be in school; and 2) that the ratio of public to private is unchanged at ninety-four percent for public elementary school and 57.4 percent for secondary school while the balance pertains to the private educational sector. He stated that Dr. Arcelo concluded that to provide free elementary and secondary education would require the present budget to be increased by ten billion pesos which is an increase by ten percent of the present budget allocated for education.

Mr. Guingona reiterated the Committee's stand that the provision is more of an expression of mandate to the State to give top priority to education as far as budgetary allocations are concerned.

On whether the provision is a mere statement of objective or a commitment of the State, Mr. Guingona reiterated that more than a statement of objective, it is a mandate to the State to give it priority and seek revenue sources in order to comply with the Constitutional provision. He added that the State should provide free secondary education at the earliest possible time and not at the earliest convenience of the government. He underscored that providing for free secondary education cannot be done overnight, although through a periodic increase of the education share in the appropriations and through other schemes such as the private contracting scheme, gradual implementation may be effected since there cannot be full compliance at this stage.

Mr. Rodrigo observed that the framers of the 1973 Constitution, in adding the phrase "where finances permit" did not want to raise the hopes of that in terms of the budgets during the 1950s, education (Editor's Note: Missing portion in the original.) a commitment with which it could not comply. He noted that in the present draft the statement is categorical. He recalled that when he was in the Senate from 1955 to 1967, at which time the 1935 Constitution was enforced, the biggest allocation went to education in spite of which the government was only able to provide free primary education. He warned that with the current financial crisis, a free secondary education may encourage more graduates of the elementary school, including those who may otherwise go to private schools, to go to public high schools. He asked what would happen in case there are no funds.

Mrs. Rosario Braid, in reply thereto, stated that this would involve rationalizing the budget and returning the emphasis on education. She pointed out that in terms of the budgets during the 1950s, education constituted 32.3% of the total appropriations while in the 1970s to early 1980s, this went down to 17.47% although the defense budget rose by 284% during the same period.

Mr. Gascon informed that education, during the 1950's, received the highest share of 35% although this went down in recent years to 8% and last year to 12%. He underscored that the Committee believes that with a Constitutional commitment that the budget for education should, in the long run, be increased, the government may be able to afford secondary education eventually. On the phrase "where finances permit", Mr. Gascon reasoned that if this is to be retained, those responsible for disbursing funds for educational institutions could always have a constitutional excuse. He admitted that in the event there is an actual finding attesting to lack of funds, the provision would not yet be enforceable against the State, although eventually, the State should provide free education up to the secondary level.

Mr. Rodrigo, reacting thereto, stated that this is not how it appears in the Constitution and that there may be expectations that upon the ratification of the Constitution, there will be free elementary and high school education. He stated that in studying the Constitutional provisions proposed, he always looked into the implementation aspect and their practicality. He noted that there may be some provisions which would raise false hopes that may frustrate the people who would blame the Members of the Constitutional Commission for making such provisions. He added that the Members of Congress may even question why the Commission included provisions which cannot be implemented for lack of funds.

Mrs. Rosario Braid, adverting to the estimates of Dr. Arcelo, stated that this was done on the basis of the conventional educational system. She noted that there are cost estimates of how much distance education by radio would cost, which type of non-conventional education system may prove to be less expensive. She said that in the future it would be possible that what the conventional educational system cannot do, on the basis of conventional costing, could be done through non-conventional systems.

Mr. Rodrigo commented that this is a novel approach and pointed out that in this instance the government can tell the people that since it cannot afford free secondary education which the Constitution provides, it would instead give that education through the radio.

In reply, Mrs. Rosario Braid informed that there are countries which are delivering education through non-conventional means that are less expensive than the conventional means of building more class. rooms and hiring more classroom teachers. She stressed that this is an alternative delivery system which can be implemented in the future.

Additionally, Mr. Guingona noted that when the 1935 Constitution provided for free primary education and the 1973 Constitution for free secondary education, they did not expect that these can be achieved and completed overnight. He stated that even up to this time free elementary education is not yet complete and adequate. He

stressed that without this provision matters could be worse and that inasmuch as the Constitution would stand for a long time, not merely for the foreseeable future, this provision could and should be implemented after a reasonable interval.

INTERPELLATION OF MR. TADEO

Mr. Tadeo prefaced his interpellation by adverting to Rizal's statement that education is the sure path towards change as well as to Rizal's statement "Tell me what kind of education you have and I'll tell you the kind of country you have". Mr. Tadeo observed that the kind or quality of education would determine the kind or quality of the country. He stressed that Rizal's statement that the hope of the country is the youth, is meant to underscore that education is the catalyst of social change and of liberation. He noted that when Rizal spoke these words, he was referring to the youth who have the proper education.

Mr. Tadeo stated that according to Rizal, the education of the farmers is like a piece of white paper on which whatever is placed would shape or mold the character of the student. He then adverted to a paper on education which said that "American colonization of the Philippines at the turn of the nineteenth century was often pictured as an act of magnanimity upon Divine inspiration because white man's burden and manifested destiny were the answer to the uncivilized people who were deemed unfit to govern". Mr. Tadeo stated that because the Filipinos were considered unfit to govern, America sent 600 Thomasites and this started the miseducation of the Filipino people.

Mr. Tadeo noted that although independence was granted to the Philippines on July 4, 1946, the country has remained a captive — politically, economically and culturally. He noted that "banking education concept" is being used to manage the education system, which concept removes the critical awareness of the students and exposes them to problem-solving and merely stresses learning through memorizing. Even the textbooks used, Mr. Tadeo observed, such as the book of Zaide pictured the Filipinos as bandits and the Americans and Spaniards as the heroes although this was corrected in the book of Agoncillo and Alfonso entitled History of the Filipino People which depicted the heroism of the Filipinos and the banditry of the Americans and Spaniards.

Furthermore, Mr. Tadeo recalled that when he attended the inter-disciplinary forum on alternative economics at the University of the Philippines, he learned that Filipinos are being taught a "consumer's mentality" which underscored the need to buy instead of to create. He noted that in all of Asia, it is only in the Philippines where free trade and economic protectionism are being taught.

Education, he underscored, instead of serving as a catalyst of social change, has only managed to preserve the status quo. He informed that when he reviewed the provisions on education he was struck by a feeling that it lacks some essentials. What education should do, he stressed, would be to respond to the needs of the country and the books to be used in the educational system should be those based on the rich experience of the Filipinos.

As to what section in the Article would reflect that education is liberating or serving as catalyst of social change, Mrs. Rosario Braid drew attention to Section 2(a) which adds the phrase "critical and creative thinking" as well as the concept of expanding the function of justice and freedom or such concepts which would support Mr. Tadeo's arguments for examining the present context and process of education to conform to the needs of critical thinking. She also stated that Section 1(d) puts primacy on the need for developing the student's critical tools. She agreed with Mr. Tadeo's views on the need to have goals which shall promote the concept of producer-oriented people and the concept of creating entrepreneurs who shall create jobs instead of seeking jobs. She said she would welcome any additional comments from Mr. Tadeo.

Thereupon, Mr. Tadeo manifested that he would propose an amendment to Section 1(a) to read: "The State

recognizes its duty of providing education to all citizens FOUNDED ON THE PRINCIPLE THAT EDUCATION IS A PROCESS OF LIBERATION CATALYZING SOCIAL CHANGE", to which Mr. Villacorta replied that the Committee would consider the amendments.

On the sentence, "Education is the right of every citizen of the Philippines", Mr. Tadeo inquired whether the right of the rich to education would also be the right of the poor. Mr. Villacorta, in response, stated that the rich and the poor shall have equal access to education as evidenced by the phrase "every citizen".

Mr. Tadeo then cited statistics showing that of 100 students who enter Grade 1, only 3 would finish college. He quoted a survey which says that "The Philippines which has the highest literacy rate in Asia ironically has the lowest literacy growth rate for the past 20 years. From 1960 to 1980, the literacy rate grew only at 4.2% a year compared to China's whopping 60.5%; Indonesia, 59%; Thailand, 26.5%; and Korea, 31%".

Mr. Gascon informed that in terms of literacy rate the Philippines has improved by 10% which would still be comparably low in relation to other Southeast Asian countries. He noted that per 100 students who enter Grade I, 62 would reach Grade VI; 33 would reach fourth year high school; and 13 would finish college.

Mr. Tadeo noted that those who have economic power or those who can avail of complete education, would wind up holding political power. He inquired whether the poor would have the chance to gain political power should they be given equal access to educational opportunities.

Replying thereto, Mr. Villacorta stated that it is for this reason that the State should give primary importance to education inasmuch as it is a vehicle to improve the economic conditions of the poor. He noted that there is a direct relationship between education and literacy rate and the status of the poor in the nation. He observed that countries with high literacy rates have high standards of living.

Mr. Tadeo stated that he differs with Mr. Rodrigo on the matter of free education, which he proposed should be free in all levels. In arguing this point, he adverted to a paper, which read:

"Education is something the State should provide for all. Its value should be recognized not only in the elementary level, where it shall be free and compulsory, but also where such education has taken conscious importance in the life of the student in his mature years, especially when he is about to enter college. The argument against free public education all the way to college, based on financial constraint of the government, will not hold water, when the same government is being pressured to support financially through exemptions and subsidies that private schools, including proprietary schools.

"Scholastic records and some forms of periodic examination, as requirements to college education, shall serve as control to screen out unprepared and unqualified entrants to state colleges and universities. A college graduate who went through the rigors of academic life is always a better citizen, and his employability higher than a high school graduate who cannot continue college for economic reason. A citizen who has developed his potential through education has more to contribute than one who, though qualified, failed to develop because he could not afford to pay for his college education. The first is not only a creative but a positive contribution to the social group. The second is not only a loss in state investment during his elementary and high school, but a risk."

Mr. Villacorta concurred with what Mr. Tadeo read.

On his proposal that the State should also provide "free private education", Mr. Tadeo inquired whether education would be service or for profit, to which Mr. Villacorta responded that it would be service to society. Mr. Tadeo observed that inasmuch as there is free public education there should also be free private education up to elementary level, considering that education is a service.

Mr. Villacorta noted that the proposal is nice. He asked if Mr. Tadeo could provide the mechanics.

Upon inquiry, Mr. Villacorta affirmed that in Section 1(c), "equal access" means access regardless of sex, religion, political beliefs, economics and income.

Mr. Tadeo stated that with respect to age, a student who goes to school late in life would have difficulty. He noted that for his sector, education is a process much similar to nutrition which must be provided at the appropriate time with the right amount and regularly without interruption so that the individual will gain full realization of his productive potential as an agent of social change.

Mr. Villacorta stated that this would be "equal access in opportunity".

On the matter of "integration with the people", Mr. Tadeo stated that education should include a six-month integration period inasmuch as education cannot be completed within the confines of the classroom only and that the students need exposure to life. He explained that the integration period could be done during the four or six years in college and should be a prerequisite to gaining a diploma.

Mr. Gascon observed that this can be left to legislation and Mr. Tadeo could introduce it as an amendment. He noted that Section 2(a) could accommodate such an opening. Moreover, he stated that the need to coordinate formal and nonformal education is clear to the Committee.

Mr. Rigos, while noting that the proposed amendment of Mr. Tadeo is sound, advised that this can be left to Congress.

Mr. Tadeo observed that Section 2(a) intends to give importance to integration with the people, to which Mr. Gascon agreed.

On Section 2(b), on the complementary roles of public and private educational institutions, Mr. Guingona stated that this calls for mutual cooperation among students, faculty and other constituents of the institution.

On whether it is the intent of the Section to allow separation between public and private educational institutions for the reason that the government does not have adequate resources to provide education to everybody, Mr. Guingona affirmed that the government does not have adequate finances, which is the reason why the Section provides that public and private educational institutions should not be separate but should form integral parts of the Philippine educational system.

Additionally, Mr. Gascon stated that it does not mean that the government will abandon its obligation to extend education to the people. He pointed out, however, that the integrated system of education consists of the public and private sectors and that the government cannot prevent the private sector from operating so that it may take over.

On whether recognition of the dual system of education would not foster social class division, Mr. Guingona replied in the negative considering that the Philippines is a pluralistic society. In this connection, he adverted to pertinent quotations from John Stuart Mill, to wit:

"All that has been said of the importance of individuality of character and diversity of opinions and modes of conduct involves the same unspeakable importance as the diversity of education. A general state education is a mere contrivance for molding people to be exactly like one another and the mold in which it casts them is that which pleases the predominant power in the government whether this be a monarch, a priesthood, an aristocracy or the majority of the existing generation in proportion to what is efficient and successful, it establishes a despotism over the mind leading by natural tendency to one over the body. An education established and controlled by the State should only exist, if it exists at all, as one among many competing experiments carried on

for the purpose of example and stimulus to keep the others up to a certain standard of excellence."

Mr. Guingona stated that the impression he got from the quotation is that it would be difficult for the State to monopolize education because a State-monopolized education would be one dictated by it and the education would become the type of education found in totalitarian states.

Additionally, Mr. Gascon stated that the present educational system has a dualistic nature, meaning the encouragement of an education for leadership and education for followership. He observed that those who go to private schools belong to the well-to-do sectors of society who can afford to pay for such kind of education and who are the ones who become leaders of society, while those who go to public schools are relegated to the role of followers. He stated that this Section, therefore, gives importance to the role of the State in education so that it can do away with the dualistic nature of education where only the rich could go to better schools while the poor who are not able to finish public education only become followers and relegated to the bottom ranks of the social and political life. He stressed that the provision seeks to attain equal standards of education in both private and public schools without necessarily doing away with private schools. He said education as a right simply means that everybody has the same genuine and equal access to it and that those who are unable to continue their studies due to economic considerations should not deter others from developing themselves to the fullest of their abilities.

On whether constitutionalizing the separation of private and public educational institutions, although complementary, would not enshrine the continued existence of private schools effectively blocking any attempt to authentically integrate the two systems, Mr. Guingona stated that precisely the reason for providing the right to education is to make the State recognize its duty relative to education. He recalled that somebody had criticized the Committee for giving too much importance to State education. He argued that the Committee stresses public education so that the level of education which is admittedly low compared to the private sector, would be improved to the extent that public education would someday be of higher quality than private education that, like in many countries, the rich people would prefer to send their children to public educational institutions than to private educational institutions. He reiterated that the right to education is emphasized to stress the responsibility of the government.

On the fear that enshrining the "complementary roles of public and private educational institutions" could lead to the closure of private schools because of the development of public education, Mr. Gascon maintained that there would always be private schools because of the initiative of many private institutions and private groups in forming educational institutions. He stressed that what is important is that the State has the responsibility to provide education and that it may come to a point where there may be an integration of both systems in whatever form, as long as they serve the interest of all. He observed that the delineation between public and private education is not as important as the assurance to the poor that they will have access and opportunity to continued education.

On the suggestion that recognition of a dual system of education be dropped and left open to future debate, Mr. Gascon expressed willingness to consider amendments at the proper time.

On the suggestion to place the study of the Constitution and human rights under the Article on Social Justice, Mr. Gascon stated that the Committee thought of including in the curriculum subjects on the Constitution, human rights, agrarian reform and labor education, but it was not pursued on the ground that it could open the floodgates to the inclusion of other subjects.

On the contention that academic freedom should be exercised not only by institutions of higher learning but also by everyone including those who teach in the elementary and secondary levels of the educational system, Mr. Villacorta stated that the concept of "academic freedom", according to tradition and jurisprudence, pertains only

to educational institutions which includes institutions of scholarship and research. He pointed out, however, that the students in the elementary and high school levels are too young and until their minds are fully developed to understand academic freedom, it may not be the levels in which the provision may be implemented.

Additionally, Mr. Gascon stated that academic freedom has been limited to tertiary education because providing for it in the primary and secondary levels might give rise to some problems.

On Section 5(b), Mr. Tadeo observed that the provision shall benefit only the rich exclusive schools with huge incomes and equally huge properties, in view of which, he suggested that tax exemptions should be limited to economically-depressed schools, particularly the mission schools and that, in the absence of accurate data to manifest which schools are rich and which schools are not, this provision should better be left to the Ministry of Education, Culture and Sports on a case-to-case basis.

Mr. Tadeo then took a position against proprietary schools being financially supported or subsidized by the State, stating that such support might only contribute to stockholders' dividends and other forms of private incomes and profits. He, however, stated that cooperatives and foundations would be easier to support than stock corporation schools founded on the philosophy of return on investment and run as profit enterprises. He suggested that the government continue its policy of encouraging the conversion of stock schools into foundations and nonstock corporations as provided for in the Education Act of 1982.

Reacting thereto, Mr. Guingona stated that with regard to proprietary schools, the Committee was in favor of the establishment and growth of educational foundations and cooperatively-owned educational institutions; however, educational foundations could not be established, except through big donations needed for the purchase of land, construction of buildings, purchase of facilities and operational expenses. He observed that those who support foundations in distress are the same people who have created or helped establish them, so much so that, although educational foundations should be established and should be allowed to grow, they should not be expected to fill the gap and respond to the needs of the growing studentry.

Mr. Guingona also stated that while the idea of cooperatively-owned educational institution may be good, it has to cope with the problem of financing. He stated that for every P5,000 to P10,000 contribution, the government should allow the prospective member a loan or grant of five times his contribution, to generate enough money to buy a school.

He observed that there has been a prejudice against proprietary schools because of the situation in the late 1940s and early 1950s when there was a boom and there were no restrictions on fees to the extent that schools were making a lot of money. He maintained that schools should not make inordinate profits. He stated that PD No. 451 has set a ceiling of 12%, but he would be in favor of putting even a lower ceiling. He stressed that the Commission should not only be concerned with the return on investments but with the residual percentage that would go to the benefit of the students directly, either in the form of decrease or non-increase in tuition fees or through better facilities and higher salaries for faculty members and staff. He opined that any increase in the salaries of faculty members would not only benefit the faculty members but also the students because then the schools would be able to attract better faculty.

He stated that the residual percentage should be considered because foundations may spend 30% for salaries of officials with only 70% left for the students, as against proprietary schools which, with a return on investment of 10% allot 15% for salaries of administration officials and, therefore, the residual benefit to the students would then be 75%. He urged that while the Commission is concerned with the return on investment, it should also concern itself with the percentage that would benefit the students.*

INTERPELLATION OF MR. SUAREZ

In reply to the queries of Mr. Suarez, Mr. Villacorta affirmed that with respect to Section 1(a), it will be the duty of the State to provide education to all citizens regardless of age and physical condition. Mr. Villacorta, however, stated that the constraint on the State, particularly on the economic aspect, will have to be recognized. He affirmed that the handicapped and disabled citizens have the right to demand from the State that they be given the kind of education which they are entitled to, although, economic constraints on the part of the State should likewise be recognized. He stressed that like any other demands of the citizenry on the State, certain realities should be considered as far as implementation is concerned. He affirmed that the exercise of this right of the citizens and this duty of the State must be reasonable. He stated that the compulsory application of these principles must be within reasonable limits, in the sense that it must be well within the means of the State as well as the financial ability of parents.

In the case of truants or out-of-school youth who do not suffer any handicap, Mr. Villacorta affirmed that the State, through the exercise of its police powers, could compel them to go to school.

On Section 1(b) which provides a system of free public education in the elementary and secondary levels and a socialized fee structure in the tertiary level in state colleges and universities, Mr. Gascon clarified that this socialized fee structure has not yet been implemented in the University of the Philippines. He explained that the intent of this socialized fee structure is to provide access to poor students who, because of the high cost of education, more often than not, could not even continue their schooling. Considering that these state colleges and universities are subsidized by the State, he stressed the need for the State to provide access to these poor students so that in the long run, they would be receiving more subsidy. than those students belonging to the privileged sector, although, this would not necessarily mean that rich students would no longer receive any subsidy. He stated that this socialized fee structure is an attempt to democratize the tertiary educational system which, at present, is being dominated by those coming from the privileged sector in the sense that those students from the lower income group, under this provision, could continue their education.

On Section 1(c) regarding the system of scholarship grants and other incentives, on whether this system is focused to those belonging to the marginalized sector or whether this would refer to scholastic records, Mr. Gascon stated that this provision speaks of equal access and opportunity to quality education but the system of scholarship grants and other incentives is more inclined to favor poor but deserving students.

On whether those who have less in life should have more in quality education, Mr. Gascon stressed that quality education is a right of every citizen. He stated that the intent of this provision is to provide quality education without any discrimination in the sense that this should be provided to all, although in real life, generally only those who belong to the rich sector could afford quality education.

Mr. Suarez cited as an example two scholars, one belonging to the marginalized sector and the other belonging to a wealthy family. He then inquired from the Committee whether it is the intent that the State favor the scholar from the marginalized sector.

Replying thereto, Mr. Gascon stressed that this provision would assure the poor scholar the opportunity to avail of scholarship grants and incentives without prejudice to extending other grants and scholarship to rich intellectuals.

Additionally, Mr. Guingona pointed out that the State may require educational institutions to provide scholarships although this is to some extent, already provided. He expressed the Committee's concern of providing more scholarship grants to those belonging to the marginalized sector.

Mrs. Rosario Braid, likewise, stated that the provision refers not only to formal education but also to nonformal

education. She stated that integrating formal education with nonformal education has been a practice. She adverted to certain proposals to return to the 2-2 Plan in school curricula for the secondary level which takes care of students who are inclined to academics and also students who are vocationally inclined. She stressed the need of working towards this kind of alternative educational system so that those who are not intellectually fit for college could be given the chance to acquire vocational education. She pointed out that the educational system of the country has suffered from over-intellectualism and over-academization and it is for this reason, she stated, that a radical educational system which is more responsive to the needs of the citizens, should be adopted.

On Section 1(d) regarding formal and nonformal education and indigenous learning system, Mrs. Rosario Braid affirmed that this would include education within the home which is basic in the education of the youth and which is as important as formal schooling. Considering the lack of linkage mechanism, she stressed the need to reinforce the values learned in the family through the school, mass media as well as places of work with the end in view of providing the youth a comprehensive education.

Mr. Suarez observed that Section 1(d) used the term "disabled and out-of-school youth" unlike in the 1973 Constitution which used the term "poor and deserving students". He then inquired whether the Committee would equate out-of-school youth with poor and deserving students.

In reply, Mrs. Rosario Braid pointed out that there are other provisions which are addressed to the problem of poor and deserving students. Under the provision referred to, she stressed the need of focusing attention to the disabled citizens who, in the past, were not adequately attended to and were not given the needed educational and training programs which is in essence specialized education different from the traditional curriculum.

Additionally, Mr. Gascon pointed out that at present, there are many adult citizens, mostly residents in the rural areas, who have not been able to continue their education and it is for this reason that they should be provided with continuing education in the same manner that disabled citizens should be encouraged to maximize their abilities so that they would become productive members of society. He stressed that this provision seeks to reach out to those who are not in school but who deserve as much attention as far as continuing education is concerned.

On whether the term "out-of-school" would likewise refer to those belonging to wealthy families in the sense that they may have strayed away from getting an education, Mr. Gascon stated that this group referred to may belong to the minority who may have been out of school due to certain problems but once these problems are resolved, these type of out-of-school youth would have no problem continuing their education. He stressed that the out-of-school youth referred to in the provision are those who could not continue formal education due to economic constraints.

On Section 2(c), on whether this provision on private educational institutions to be wholly owned by citizens of the Philippines is prospective in character and not retroactive in application, Mr. Villacorta explained that upon ratification of the Constitution, all existing private educational institutions owned by foreign nationals are mandated to undertake the Filipinization process within a given time.

With respect to Section 2(d), on the rationale for including the provision in the Constitution, Mr. Gascon explained that it would prevent the State from unduly imposing itself on the academic community by demanding that the students take up courses geared towards a particular development plan. This, he stated, would curtail the student's freedom of choice.

Relative to military service training required of students in the past regime, Mr. Gascon stated that this military training was implemented pursuant to the National Defense Act which is a prerequisite before a student could complete a degree. He opined that this should be reviewed and revised by making it optional. He pointed out that

the National Service Law issued in the past regime was an attempt to expand this concept of military training and this provoked protests from the academic community on the ground that this is an undue intrusion of the State. It is for this reason, he stated, that under Section 2(d), it is the intent of the Committee to minimize intrusion by the State into the affairs of the academic institutions and the students themselves.

Mr. Guingona added that this National Service Law is not even part of the school curriculum but a non-credit activity which is required pursuant to a provision in the Declaration of Principles. He further stated that the admission and retention requirements referred to in Section 2(d) are necessary because there would be physical, academic and other requirements that have to be considered like the lack of school facilities which would affect the rights of the student to study in that particular school.

In addition thereto, Mrs. Rosario Braid stated that this does not preclude the strengthening of guidance counselling units in every school in order to help the student not only in terms of harnessing his individual aptitude but also provide directions in his choice of profession so that he could easily be absorbed in the economic mainstream and at the same time contribute to the needs of national development. She pointed out that the educational system should be responsive to the needs of the individual and society.

On Mr. Suarez' query whether there is a need for the provision since a student could choose his profession and the State is mandated not to interfere with such choice, Mr. Villacorta manifested that perhaps there is a need to amend the provision because what the Committee really intends are degree courses that would determine one's professional occupation and not particular subjects.

Mr. Guingona added that the right, just like any other right, is not absolute.

On the query whether "proprietary educational institutions" on Section 5(b) include schools like FEU, UE, Centro Escolar University or PWU, Mr. Villacorta answered in the affirmative. He explained that proprietary educational institutions refer to schools that are allowed to make profits for as long as these profits are not too much, and at the same time, they recognize that education is primarily a public service. He added that such schools would be exempted from the payment of taxes and duties for as long as they limit their dividends to the amount to be provided for by law.

On Mr. Suarez' query whether a school which succeeds in making profits in excess of what a law may limit as the amount of profit to be distributed as dividend of the capital investment per year, would still be exempted from the payment of taxes and duties just like non-stock and non-profit educational institutions, Mr. Villacorta answered in the affirmative.

Mr. Guingona added that the law could even provide less than 12% as a limit. He explained that what the Committee envisions is that the surplus should be used primarily for the benefit of the students and teachers. He pointed out that the law may provide on how the surplus would be distributed as it is done under Presidential Decree No. 451.

As to the possibility of a private school which makes enormous profits to limit its declaration to what would be specified by law, Mr. Guingona explained that the law may limit the return on investment to 6% or any other percentage and the surplus profits should be used for capital outlay such as improvement of laboratory facilities, increase in teachers' salaries or any other expenditure which would redound to the benefit of the students, directly or indirectly.

On Mr. Suarez' contention that the profits could also be distributed to the directors of a school by way of additional per diems, allowances, compensations and other fringe benefits instead of being used for capital requirements, Mr. Guingona stated that such considerations should also be taken into account as against the total

surplus so that limitations could also be set thereon.

Additionally, Mrs. Rosario Braid stated that many of the proprietary institutions are not really making profit and in the future such institutions may convert themselves into foundations or cooperatives like the Centro Escolar University.

On Mr. Suarez' suggestion that the Committee review that particular provision, Mr. Villacorta stated that the Committee would welcome any proposed amendment on the matter at the proper time.

ADJOURNMENT OF SESSION

On motion of Mr. Rama, there being no objection, the Chair declared the session adjourned until nine-thirty in the morning of Monday, September 1, 1986.+

It was 12:11 p.m.

I hereby certify to the correctness of the foregoing.

(SGD.) FLERIDA RUTH P. ROMERO

Secretary-General

ATTESTED:

(SGD.) CECILIA MUÑOZ PALMA

President

Approved on September 1, 1986.

* See the Journal of September 1, 1986 for the correction.

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